IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

SECOND APPEAL NO.1403 OF 2005

Inaytulla Karim Mulla. ... Appellant.

Vs.

Pandurang Govind Shelke & Ors. ...Respondents.

....

Mr.S.G.Deshmukh for the Appellant.

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CORAM : DR.D.Y.CHANDRACHUD, J.

December 2, 2005.

P.C. :

Both the Courts below have concurred in holding that the Appellant has not made out any case in the suit for possession. The sale deed dated 7th January 1966 (Exh.35) shows that the Appellant had purchased an undivided 1/5th share in Survey Nos.122 and 123/1. The boundaries and area are not mentioned in the sale deed. The Appellant's Constituted Attorney admitted in his evidence that the Appellant had purchased an undivided share and that he did not possess any document to show that he had purchased 33 Ares of

land out of Survey No.122. There are other co-owners. No partition has been effected. The Appellant, thereore, cannot lay a claim to possession of a specified area or holding before partition.

In these circumstances, the finding of the Courts below do not suffer from any infirmity. No substantial question of law arises. The Second Appeal is dismissed.

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